

Exhibit A

IN THE IOWA DISTRICT COURT, IN AND FOR DUBUQUE COUNTY

KENNETH CUNNINGHAM, Plaintiff, vs. PRAIRIE FARMS DAIRY, INC. and EAST SIDE JERSEY DAIRY, INC. Respondents.	Case No. _____
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PETITION AT LAW

COMES NOW, Plaintiff Kenneth Cunningham, by and through his Attorney Zeke R. McCartney of Reynolds & Kenline, L.L.P. and in support of this Petition states as follows:

I. INTRODUCTION

1. This action is against Defendants Prairie Farms Dairy, Inc. And East Side Jersey Dairy, Inc. for disability based discrimination and termination in violation of Plaintiff's rights pursuant to the Iowa Civil Rights act, Iowa Code Chapter 216 and all such acts which constitute unfair employment practices pursuant to the Iowa Civil Rights act. Further this is an action for violations of the Americans with Disabilities Act including, but not limited to, interference with Plaintiffs rights under the ADA and retaliatory discharge based upon Plaintiff's exercise of his ADA rights.

II. JURISDICTION AND VENUE.

2. This court has jurisdiction over this matter as the value exceeds a small claims jurisdictional amount herein.
3. Venue is appropriate in Dubuque County, Iowa, pursuant to Iowa Code Section 216.16(5). It is alleged that such practices occurred in Dubuque County, Iowa, and the Defendant acts as an employer in Dubuque County, Iowa, and operates a business location therein.

III. PARTIES AND BACKGROUND.

4. Plaintiff, Kenneth Cunningham was at all material times herein a resident of East Dubuque, Jo Daviess County, Illinois.
5. Defendant Prairie Farms Dairy, Inc. is a corporation located in Dubuque, Iowa, and at all material times herein was doing business in Dubuque, Iowa.
6. Defendant East Side Jersey Dairy Inc., is a corporation located in Dubuque,

Iowa.

7. Plaintiff, Kenneth Cunningham began employment with Prairie Farms Dairy, Inc. on or about June 1, 2009. Prior to that Plaintiff worked for the previous business and building owner, Swiss Valley from on or about September 19, 2005.
8. Plaintiff was employed by Prairie Farms Dairy, Inc. at their facility in Dubuque County.
9. Defendant East Side Jersey Dairy Inc. is the owner of the facility that Plaintiff worked at located in Dubuque County, Iowa.
10. At all material times herein, Plaintiff was diagnosed with diabetes.
11. Diabetes is a disability covered by the Iowa Civil Rights Acts and also constitutes a serious health condition within the meaning of the American's with Disabilities Act.
12. As a result of Plaintiff's diabetes, he occasionally has to drink juice, or similar drink or food to increase his blood sugar.
13. Plaintiff was on multiple times admonished for drinking juice on the job by his supervisors.
14. On multiple times, Plaintiff's supervisor falsely claimed Plaintiff "blacked out." Management made negative comments regarding these false episodes.
15. Plaintiff's supervisor forced Plaintiff to go to the emergency room on multiple occasions when it was not necessary. Management then made negative comments to Plaintiff regarding the costs of these trips, evidencing their discriminatory intent.
16. Plaintiff was informed by his doctors he should keep overtime work to a minimum. However, Defendant regularly forced Plaintiff to work extended overtime, which in turn placed Plaintiff at a higher risk for diabetic episodes.
17. Plaintiff is an African-American male.
18. On multiple occasions, Plaintiff was called derogatory names including "Black Kenny" and "Nigger" by co-workers. These comments were made in front of Plaintiff's supervisors but the supervisors ignored the comments. Plaintiff then requested his supervisor speak to the employees to discourage such comments and management responded by telling Plaintiff to ignore the comments.

19. As a result of Plaintiff's diabetes, his toe was amputated. Following the amputation, Plaintiff's co-workers referred to this as his "Nigger Toe." Plaintiff's co-workers made these comments in front of management. Management did nothing in response. Plaintiff then requested his supervisor speak to the employees to discourage such comments and management responded by telling Plaintiff to ignore the comments.
20. Plaintiff was terminated on or about October 19, 2018.
21. Defendant claimed the reason for the termination was that Plaintiff left the premises without supervision.
22. Plaintiff did leave the premises on October 13, 2018. However, Plaintiff was ill that day and left in order to get over-the-counter medication at the store next door. Plaintiff was gone a total of six minutes. No damage or incident occurred as a result of Plaintiff's brief absence.
23. Plaintiff was not informed on October 13 he did anything wrong, nor was he informed the incident was an issue until the time of his termination on October 19, 2018.
24. Prior to his termination, Plaintiff was a model employee. Plaintiff did not have any write-ups or other discipline for either Defendant Prairie Farms, nor its predecessor Swiss Valley.
25. Plaintiff was discriminated against and retaliated against by Defendant Prairie Farms because of his disability as described above.
26. Plaintiff was discriminated against and retaliated against by Defendant Prairie Farms because of his race as described above.
27. Defendant failed to accommodate Plaintiff by refusing to allow him juice to moderate his blood sugar, failing to allow Plaintiff to attend various medical appointments, and by forcing Plaintiff to take extended overtime.
28. Defendant eventually terminated Plaintiff because of his disability and in retaliation for having requested reasonable accommodation.
29. Defendant eventually terminated Plaintiff also based on his race and in retaliation for requesting that management stop the harassment at the work place.

IV. PROCEDURAL PREREQUISITES

30. Plaintiff Kenneth Cunningham initiated this Employment discrimination action by timely filing a complaint with the Iowa Civil Rights Commission on or about November 30, 2018. A copy of said Complaint is attached hereto as

Exhibit 1.

31. Plaintiff's complaint before the Iowa Civil Rights Commission was filed within 300 days of the discriminatory acts complained of and the acts complained of continued throughout the term of Plaintiff's employment.
32. Pursuant to Iowa code section 216.16 and 161 Iowa Administrative Code section 3.10 the Plaintiff requested an Administrative Release, granting him the right to file this action in District Court.
33. The Iowa Civil Rights Commission issued the Administrative Release (Right to Sue Letter) to Plaintiff on April 3, 2019. A copy of said Release is attached hereto as exhibit 2.
34. This action is timely filed within 90 days of the issuance of the Release.
35. There are no administrative filing requirements or prerequisites for filing a claim based on violation of the ADA, 42 U.S.C. § 12101 et seq.

**COUNT I - VIOLATION OF THE IOWA CIVIL RIGHTS ACT: DISABILITY
DISCRIMINATION AND RETALIATION**

36. Plaintiff hereby incorporates by reference Exhibit 1, his Complaint to the Iowa Civil Rights Commission that was filed as referenced above as if fully alleged herein.
37. Plaintiff further incorporates paragraphs 1 through 35 as if fully alleged herein.
38. At all material times herein plaintiff was an employee of the defendant working at 3510 Central Avenue, Dubuque, Iowa 52001, within the meaning of the Iowa Civil Rights Act, Iowa Code Chapter 216.
39. At all material times herein defendant was plaintiff's employer in the meaning of the Iowa Civil Rights Act.
40. Plaintiff's diabetes constitutes as a disability under the Iowa Civil Rights Act. Therefore, plaintiff was disabled within the meaning of the Iowa Civil Rights Act.
41. Plaintiff was able to perform the essential functions of his job with or without reasonable accommodations at all times materially herein.
42. Plaintiff was a qualified individual with a disability.
43. Plaintiff requested reasonable accommodations and defendant failed to provide those accommodations.

44. Plaintiff's disability was a motivating factor in the decision to terminate his employment.
45. Defendant failed to accommodate plaintiff's disability by providing adequate time off and other reasonable accommodations as required by the Iowa Civil Rights Act, including allowing plaintiff time for medical visits, allowing plaintiff food and/or beverage to moderate his blood sugar and forcing plaintiff to work extended overtime.
46. Defendant's failure to provide reasonable accommodations is a violation of the Iowa Civil Rights Act.
47. The actions of the defendant in terminating plaintiff based on his disability constitutes unlawful discrimination pursuant to the Iowa Civil Rights Act.
48. Defendants action to terminate plaintiff in retaliation for his request for reasonable accommodations constitutes a violation of the Iowa Civil Rights Act.
49. As a result of the unlawful actions of the defendant, plaintiff has suffered lost wages and benefits, emotional distress, humiliation, and also enjoyment of life.

COUNT II - VIOLATION OF THE IOWA CIVIL RIGHTS ACT:
RACIAL DISCRIMINATION AND RETALIATION

50. Plaintiff re-pleads paragraphs 1 through 48 as if fully set forth herein.
51. Defendants subjected plaintiff to discrimination and harassment.
52. Race was a motivating factor in the harassment and discrimination.
53. Plaintiff complained to defendants, the Iowa Civil Rights Commission, the Equal Opportunity Employment Commission about harassment and racial discrimination and retaliation and otherwise opposed practices made unlawful by the Iowa Civil Rights Act.
54. Defendants retaliated against plaintiff by terminating him.
55. Plaintiff's protective activity was a motivating factor in the retaliation against him. As a result of defendants acts and omissions plaintiff has in the past and will in the future suffer injuries and damages including lost wages and benefits, emotional distress, humiliation, and loss of enjoyment of life.

COUNT III - VIOLATION OF THE AMERICAN'S WITH DISABILITIES ACT

Plaintiff hereby incorporates by reference paragraphs 1 through 54 as if fully

alleged herein.

56. Plaintiff was at all times an eligible employee under the American's with Disabilities Act.
57. Defendant employed more than fifteen (15) employees.
58. Plaintiff was entitled to reasonable accommodation under the ADA as he suffered from a serious health condition as defined by the ADA and met the other eligibility requirements.
59. Defendant engaged in conduct prohibited by statute by unreasonably interfering with plaintiff's exercise of his ADA rights and by terminating plaintiff's employment in retaliation for plaintiff exercising his ADA rights.
60. The result of the unlawful actions of defendant as described above plaintiff has suffered lost wages and benefits, emotional distress and other damages.

RELIEF

WHEREFORE, Plaintiff demands judgment against defendants jointly and severely in an amount which will fully and fairly compensate him for his injuries and damages, for pre-judgment and post judgement interest and for attorney's fees and expenses, for the cost of this action, for appropriate equitable injunctive relief, and for such other relief as may be just in the circumstances and consistent with the purpose of the Iowa Civil Rights Act and the American with Disabilities Act.

JURY DEMAND

COMES NOW, Plaintiff and hereby requests a trial by jury.

Kenny Cunningham, Plaintiff

By:


Zeke R. McCartney - #AT0011429
of

REYNOLDS & KENLINE, L.L.P.

110 East 9th Street

P.O. Box 239

Dubuque, IA 52004-0239

Tel: (563) 556-8000

Fax: (563) 556-8009

E-Mail: mccartney@rkenline.com

ATTORNEYS FOR PLAINTIFF

IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

KENNETH CUNNINGHAM, Plaintiff, vs. PRAIRIE FARMS DAIRY, INC. and EAST SIDE JERSEY DAIRY, INC., Defendants.	Case No. LACV _____
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ORIGINAL NOTICE

TO THE ABOVE-NAMED DEFENDANT:

You are notified that a Petition has been filed on the 10TH day of July, 2019, in the Office of the Clerk of this Court, naming you as the Defendant in this action. A copy of the Petition (and any documents filed with it) is attached to this Notice. The Attorney for the Plaintiff is Zeke R. McCartney, Reynolds & Kenline, L.L.P., whose address is 110 East 9th Street, P.O. Box 239, Dubuque, Iowa 52004-0239. That attorney's phone number is (563) 556-8000; facsimile number (563) 556-8009; email: mccartney@rkenline.com.

You must serve a Motion or Answer within 20 days after service of this Original Notice upon you, and, within a reasonable time thereafter, file your Motion or Answer, with the Clerk of Court for Dubuque County by utilizing electronic filing at <https://www.iowacourts/state/ia.us/Efile> . If you do not, judgment by default may be rendered against you for the relief demanded in the Petition. You must e-file pursuant to Iowa Court Rules Chapter 16 for general rules and information on electronic filing. Chapter 16, division VI relates to protection of personal information in court filings.

If you need assistance to participate in court due to a disability, call the disability coordinator at (319) 833-3332. Persons who are hearing or speech impaired may call Relay Iowa TTY (1-800-735-2942). **Disability coordinators cannot provide legal advice.**

IMPORTANT: YOU ARE ADVISED TO SEEK LEGAL ADVICE AT ONCE TO PROTECT YOUR INTERESTS.

STATE OF IOWA JUDICIARY

Case No. LACV109456

County Dubuque

Case Title CUNNINGHAM V PRAIRIE FARMS & EAST SIDE JERSEY

THIS CASE HAS BEEN FILED IN A COUNTY THAT USES ELECTRONIC FILING.

Therefore, unless the attached Petition and Original Notice contains a hearing date for your appearance, or unless you obtain an exemption from the court, you must file your Appearance and Answer electronically.

You must register through the Iowa Judicial Branch website at <http://www.iowacourts.state.ia.us/Efile> and obtain a log in and password for the purposes of filing and viewing documents on your case and of receiving service and notices from the court.

FOR GENERAL RULES AND INFORMATION ON ELECTRONIC FILING, REFER TO THE IOWA COURT RULES CHAPTER 16 PERTAINING TO THE USE OF THE ELECTRONIC DOCUMENT MANAGEMENT SYSTEM:

<http://www.iowacourts.state.ia.us/Efile>

FOR COURT RULES ON PROTECTION OF PERSONAL PRIVACY IN COURT FILINGS, REFER TO DIVISION VI OF IOWA COURT RULES CHAPTER 16: <http://www.iowacourts.state.ia.us/Efile>

Scheduled Hearing:

If you require the assistance of auxiliary aids or services to participate in court because of a disability, immediately call your district ADA coordinator at (319) 833-3332 . (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942.)

Date Issued 07/11/2019 04:04:51 PM



District Clerk of Dubuque

County

/s/ Trisha Quijano

POLK COUNTY SHERIFF'S OFFICE**SHERIFF KEVIN J. SCHNEIDER**Civil Division | 222 – 5th Avenue Des Moines, IA, 50309

Sheriff's Office (515) 286-3940 | Fax (515) 286-3410

RETURN OF SERVICE**In the IA District Court for DUBUQUE COUNTY COURT**

KENNETH CUNNINGHAM

VS

EAST SIDE JERSEY DAIRY INC, PRAIRIE FARMS
DAIRY INC

Sheriff #: 19030997
 Case #: LACV109456
 Received: 8/13/2019

STATE OF IOWA POLK COUNTY } §

I certify that I served a copy of:
 X ONP/Jury Demand

On: 8/15/2019 12:21:00 PM

To: PRAIRIE FARMS DAIRY by delivering a copy to ARIANA NIKIC
 a person at least 18 years of age described as REGISTERED AGENT

Manner Served: REGISTERED AGENT

Address of Service: 505 5th Ave STE 729 REG AGENT: CORP SERVICE CO, Des Moines, IA 50309

Notes:

Attempts

Date: 8/15/2019 12:21:00 PM

Address: 505 5th Ave STE 729 REG AGENT: CORP SERVICE CO, Des Moines, IA 50309

Note:

FEES**Total: \$69.28****Kevin J Schneider, Sheriff of Polk County, Iowa**

Deputy/Server: Jeremy Stone

POLK COUNTY SHERIFF'S OFFICE**SHERIFF KEVIN J. SCHNEIDER**Civil Division | 222 – 5th Avenue Des Moines, IA, 50309

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Note:

FEES**Total: \$60.00****Kevin J Schneider, Sheriff of Polk County, Iowa**

Deputy/Server: Jeremy Stone

IN THE IOWA DISTRICT COURT FOR DUBUQUE COUNTY

CUNNINGHAM V PRAIRIE FARMS & EAST SIDE
JERSEY

Case No. 01311 LACV109456

CLERK'S CERTIFICATE

PreparedDocket Event Code: TRPD

Received Docket Event Code: TROT

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the seal of Iowa District Court of the State of Iowa in and for DUBUQUE County on 08/22/2019 and do hereby certify this is a true and accurate record of:

ENTIRE COURT FILE

Dated: August 22, 2019



/s/ Shelly Donovan

Clerk of District Court/Designee
DUBUQUE County